THE HON'BLE SRI JUSTICE B. PRAKASH RAO

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WRIT PETITION NO.21732 OF 1994

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Date: 10.06.2005

Between:

S.Ramana Reddy,

S/o Subba Reddy, aged 37 years,

R/o Murrakambattu Village,

Chittoor Mandal, Chittoor District.

Petitioner.

And

The Government of Andhra Pradesh, rep.

By its Secretary Department of Revenue,

Secretariat Buildings, Hyderabad and two others.

Respondents.

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WRIT PETITION NO.21732 OF 1994

ORDER:

Heard Sri T.Niranjan Reddy, the learned counsel appearing for the petitioner and

the learned Government Pleader for Revenue appearing for the respondents.

The petitioner herein, who claims to be a purchaser in respect of the assigned lands, filed this Writ Petition, *inter alia,* seeking to assail the orders dated 17.06.1993 passed by the third respondent herein as confirmed in G.O.Ms.No.1216, dated 06.12.1994 issued by the first respondent as bad, illegal and void and further seeks a declaration that Section 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 as ultra vires the Article 300A of the Constitution of India.

Though the latter relief assailing the validity of Section 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1997 (for short 'the Act') was included in the relief/prayer portion, no arguments were advanced during the course of hearing. Hence, it is not necessary to address on the said aspect.

The case of the petitioner is that on completion of his Post graduation in M.Sc., in the year 1982 and M.Ed., in the year 1985, he started a School in the name and style of 'Siddartha English Medium School' at Chittoor in the year 1985 initially in a rental building. The said School was recognized in the year 1987 for the classes run from I standard to V standard and the same was extended to classes VI and VII standard in the year 1989 and VIII standard in the year 1993. It is further submitted that in all now there are about 600 students are studying, 27 teachers and 8 other non-teaching staff are working in the School. The petitioner claims that he had purchased an extent of Ac.1.20 cents in Survey No.118/8 of Murrakambattu village under a registered sale deed dated 06.10.1990 for valid consideration and another extent of Ac.1.60 cents of land in Survey No.615/3 in the same village under a registered sale

deed on 18.05.1991 and further an extent of Ac.0.15 cents of land in Survey No.120 under a registered sale deed dated 19.03.1991. As there was mistake in regard to survey number showing it as 119, on an application filed on 20.12.1991 to the Sub-Registrar, the rectification was effected. Thereafter, initially the petitioner constructed temporary structures and shifted the School to the said premises in the year 1992 and later he had invested about more than Rs. 5 lakhs to Rs.6 lakhs for construction of pucca buildings and other structures and thus running the said School. The said School has been recognized as one of the best schools in the area. However, due to local rivalries and at the instance of Sarpanch, Upa-Sarpanch and others, who are also running another School, the petitioner was got issued a notice by the third respondent on 29.05.1993 stating that he contravened the provisions of Sections 3(2) of the Act in respect of the lands in Survey Nos.118/8, 615/3 and 119 of Murrakambattu village. The petitioner was called upon as to why he should not be evicted from the said lands and he filed explanation on 14.06.1993 bringing out all the aforesaid acts and also the developments made by the him. Further, it is his case that he had purchased those lands for valid consideration and in good faith, without knowing the alleged assignments. It is also submitted that there is another rival school is being run under the name ‘Prakash English Medium School’ in the same village, who are behind in taking the impugned action against the petitioner due to competition and enmity. Further, the petitioner is a landless poor person and inspite of the same, the third respondent as per orders dated 17.06.1993 resumed the lands on the ground that the entire extent is an assigned land and therefore, purchase made by the petitioner is in violation of the provisions of the Act. The petitioner sought to trace the assignments made to the original assignees and also the

subsequent change of hands. Thereafter, the petitioner filed a revision before the first respondent and raised several contentions including as to the *bona fide* purchaser purchased the said lands for valid consideration and running the said school. Though initially the Government was in favour of the petitioner but ultimately rejected the said revision as per the impugned order dated 06.12.1994. In view of the same, both the orders suffer from various infirmities. Hence, the Writ Petition.

In the counter-affidavit filed on behalf of the respondents, there is reiteration to the fact that the lands are assigned lands and therefore, the petitioner purchased the same in contra to the prohibition contained therein and therefore, the petitioner cannot claim any right as such. Both the authorities rightly resumed the lands by taking into consideration the explanation submitted by the petitioner.

Sri T. Niranjan Reddy, the learned counsel appearing for the petitioner submitted that the entire impugned action is nothing but at the behest of the local rival persons and groups, who are also running similar such schools and further the petitioner being the *bona fide* purchaser, the authorities could not have invoked such provision against him. It is also pointed out that the assignment was made long back. Further, the petitioner having purchased the said lands some time back and made developments and running the School to the utmost satisfaction, there is absolutely no justification to invoke the power of resumption on such ground at this late hour which suffers from latches.

The learned Government Pleader appearing for the respondents sought to sustain the orders on the ground that in view of the clear violation of the provisions of the Act

and there is no specific period as such, it is always open to the authorities to take appropriate action.

Having considered the submissions made on either side and on perusal of the material available on record, the only question which arises for consideration is as to whether on the facts and circumstances the impugned action of the respondents in resuming the lands of the petitioner on the ground of violation of the provisions of the Act is sustainable?

There is no dispute to the basic facts to the effect that the petitioner is the purchaser of the said lands which no doubt are traceably assigned lands.

The main ground urged on behalf of the petitioner is only to the effect that he was not aware of the said litigation and further he is a *bona fide* purchaser for valid consideration and the said land is being used for School which is a well recognized School. The petitioner invested substantial amounts for construction of structures and development of the School. That apart, the petitioner case is to the effect that the entire impugned action is at the behest of the local rival competing School involving Sarpanch, Upa-Sarpanch and others. In support, the learned counsel appearing for the petitioner sought to place reliance on the decision reported in ***P. Mangamma vs. Workmen's Co-Op. Housing Society Ltd.,*** to the effect that the powers cannot be invoked after long lapse of time. As already submitted, the lands in respect of which the petitioner claims are admittedly assigned lands. Though a plea was raised in the Writ Petition to the effect that the assignment was made in the year 1937 and the first sale deed was executed on 26.04.1944 and at the time, there was no prohibition in the assignment policy. However, the same was made prior to the year 1954. Except

making a bald assertion, nothing has been pointed out by the learned counsel for the petitioner. Even the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 shows that none of the assignments made is in prospective effect by tracing assignment policy even much prior to the year 1954. It has been the case on behalf of the respondents that every such assignment is mulcted with pre-condition not to alienate the same. Therefore, it cannot be said that the prohibition as sought to be implemented under the provisions of the Act cannot be made applicable since it has already been held by this Court that the provisions will also have retrospective effect in its operation. In regard to the decision relied on by the petitioner herein, it is seen that the facts of that case are dissimilar to the present one on hand. In that case, the District Collector tried to invoke the provisions of Section 163-B of the Andhra Pradesh (T.,A.) Land Recovery Act, 1317 Fasli on the ground that the assignment made was without prior permission from the Collector. On the facts and circumstances, it was found that there was interference with the lands of the petitioners by the authorities basing on the order of the District Collector and therefore any exercise of powers for cancellation of the assignments made much prior to 1954 and the third parties interests are involved and having acquired rights and interests in the lands and also when the pucca buildings were constructed by investing huge money is held to be unreasonable whereas in this case the allegation is to the effect that the purchases made by the petitioner or his predecessors in title are in the teach of the prohibitory mandate as contemplated not only under the provisions of the aforesaid Act but also on the terms and conditions of the assignments as contemplated even at the relevant point of time. In view of the

same, it cannot be said that there is any such exercise of *suo motu* powers at any late hour. In the circumstances, I do not find any merits in the Writ Petition and the Writ Petition fails.

The Writ Petition is dismissed. No costs.

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B. PRAKASH RAO, J

10th June, 2005.

Chvn.